

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ESTATE OF RONALD SCHICK, et al.,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

:
:
:
:
:
:
:
:
:
:
:
:

Civil Action No. 15-3248 (SRC)

OPINION AND ORDER

CHESLER, U.S.D.J.

This case comes before the Court upon the motion by Defendant the United States of America (“the Government”) to dismiss the Amended Complaint of Plaintiff the Estate of Ronald Schick (“Plaintiff”) or, in the alternative, to grant summary judgment in favor of the Government. Plaintiff opposed these motions.

The Court previously granted the Government’s motion for summary judgment on Counts 1 and 2 of Plaintiff’s Amended Complaint [Docket Entry 20]. On August 26, 2015, this Court also ordered that the parties advise the Court in writing, within ten days, as to whether any further disputes remain on Counts 3 and 4 of the Amended Complaint, and as to whether the Court should remand the remainder of this action to the New Jersey Superior Court, Bergen County [Docket Entry 21].

The Government has advised the Court that it does not oppose dismissing Counts 3 and 4 of the Amended Complaint, and that it does not oppose a remand of the remainder of this action to New Jersey Superior Court [Docket Entry 22]. As of September 22, 2015, Plaintiff has not responded to the Court’s Order.

The State of New Jersey has also advised the Court that it has no objection to the dismissal of Counts 3 and 4 of the Amended Complaint, and that it supports the remand of this action to New Jersey Superior Court. It also asks the Court to grant summary judgment in favor of the State of New Jersey on Counts 1 and 2 of the Amended Complaint [Docket Entry 23].

The Court finds that the State of New Jersey's request for summary judgment in its favor is belated, as it has already given its decision on Counts 1 and 2 of the Amended Complaint.

The Government originally requested the removal of this case from New Jersey Superior Court, Bergen County, because the first two counts of the Amended Complaint dealt with issues of federal law: the priority of the federal tax lien and the Federal Insolvency Statute, among others. The Court has disposed of those issues and as the Government does not object to the remand, the Court will remand the case.

For these reasons,

IT IS on this 23rd day of September, 2015,

ORDERED that Counts 1 and 2 of the Amended Complaint are hereby **DISMISSED WITH PREJUDICE** pursuant to this Court's prior Opinion and Order of August 26, 2015 [Docket Entries 20 and 21]; and it is further

ORDERED that Counts 3 and 4 of the Amended Complaint be **DISMISSED WITH PREJUDICE**; and it is further

ORDERED that the State of New Jersey's request for summary judgment in this action on Counts 1 and 2 of the Amended Complaint is **DENIED**; and it is further

ORDERED that, pursuant to 28 U.S.C. § 1447(c), this action is **REMANDED** to the New Jersey Superior Court, Bergen County, for disposition.

/s Stanley R. Chesler
STANLEY R. CHESLER, U.S.D.J.